

CITY BOARD OF ZONING APPEAL #06002

DATE SCHEDULED FOR PUBLIC HEARING: February 24, 2006

LOCATION: Northeast of the intersection of South 84th Street Old Cheney Road.

ADDRESS: 5630 South 84th Street

LEGAL DESCRIPTION: Lot 75 I.T., located in the SW 1/4 of Section 11, T9N, R7E, Lincoln, Lancaster County, Nebraska.

ZONING: O-2 Suburban Office

EXISTING LAND USE: Agricultural Buildings

SURROUNDING LAND USE AND ZONING:

North:	Open space associated with the HiMark CUP/Golf Course	R-3
South:	Single-family Residential	O-2
East:	Open space associated with the HiMark CUP/Golf Course	R-3
West:	Vacant (site of Pine Gardens PUD recently approved for residential and commercial uses)	R-3

HISTORY: CZ#04047 - A change of zone from AG and R-3 to O-2 approved in 1994 for this lot and the adjacent lot to the south. It was noted in the review that both lots would share a common access drive to South 84th Street when developed commercially because the south lot would be required to relinquish access to Old Cheney Road at that time.

TYPE OF APPEAL:

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO A VARIANCE.

Lincoln Municipal Code (LMC) Section 27.26.080(a) requires a rear setback of 40'. A variance to the rear yard setback from 40' to 10' is requested.

STAFF FINDINGS:

1. The subject property is located at 5830 South 84th Street and is zoned O-2 Suburban Office.
2. The rear yard setback in the O-2 district per LMC Section 27.26.080(a) is 40'.

3. The applicant's lot is located on the east side of South 84th Street, adjacent to the HiMark Golf Course and Community Unit Plan (CUP). The zoning was changed in 2004 from AG and R-3 to O-2 at the request of the owners.
4. Plans submitted to Building and Safety for building permits shows two office buildings, each approximately 5,870 square feet in area with a total of 54 parking spaces.
5. The site plan shows a dashed line representing the required 40' rear setback extending through the center of the buildings. The proposed setback from the rear lot line to the building is 10.47'.
6. The application form notes "The topography of the lot is such that the elevation from 84th Street to the back of the lot drops approximately 16'." From the information provided it is not clear how the slope across the site creates a peculiar, exceptional or unique circumstance. The relationship between slope and setback demonstrating that the variance is the appropriate remedy is also not apparent.
7. The Board of Zoning Appeals is empowered to grant variances "to the extent necessary to permit the owner a reasonable use of the land in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned."
8. It appears that the property owner has reasonable use of the property without a variance, albeit at a lesser intensity than proposed. It was noted in the review of CZ#04047 that there could be difficulty developing the O-2 lots separately due to existing development constraints including lot size and limited access to the adjacent arterial streets.
9. If this appeal is denied, the property owner will not be allowed to encroach into the 40' rear yard setback and must comply with all requirements of the O-2 district.

Prepared by

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Planner
February 15, 2006

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5830 South 84th Street

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APPLICANT:

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Board of Zoning Appeals #06002 **5630 S. 84th Street**

2005 aerial

Pioneers Blvd.

Zoning:

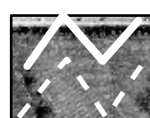
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile
 Sec. 11 T09N R7E



S 84th St.

S 98th St.



Zoning Jurisdiction Lines

City Limit Jurisdiction

Old Cheney Rd.